

COHEN TAUBER SPIEVACK & WAGNER P.C.

Stephen Wagner, Esq.
420 Lexington Avenue, Suite 2400
New York, New York 10170
Tel.: (212) 586-5800
swagner@ctswlaw.com

Counsel to Cohen Tauber Spievack & Wagner P.C. pro se

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

| | | |
|-----------------------------|---|---|
| ----- | X | |
| In re: | : | Case No. Chapter 11 |
| | : | |
| 288 4TH LLC, | : | Case No. 24-43626-ess |
| | : | |
| Debtors. | : | Hearing Date: December 30, 2024 at 11:00 a.m. |
| | : | |
| ----- | X | |
| 288 4TH LLC, | : | |
| | : | |
| Plaintiff, | : | Adv. P. No. 24-01087 |
| | : | |
| v. | : | <u>NOTICE OF MOTION TO DISMISS</u> |
| | : | |
| HAIM KAHAN, COHEN TAUBER | : | |
| SPIEVACK & WAGNER P.C., and | : | |
| PROGRESSIVE REAL ESTATE | : | |
| AGENCY LLC, | : | |
| | : | |
| Defendants. | : | |
| ----- | X | |

PLEASE TAKE NOTICE that, on December 30, 2024 at 11:00 a.m., or as soon thereafter as counsel may be heard, Defendant Cohen Tauber Spievack & Wagner P.C. (“CTSW”), appearing *pro se*, shall move before the Honorable Elizabeth S. Stong, United States Bankruptcy Judge, in the Courtroom located at the United States Bankruptcy Court, Eastern

District of New York, Conrad B. Duberstein U.S. Courthouse, 271-C Cadman Plaza East, Brooklyn, NY 11201-1800, Courtroom 3585 on or as soon thereafter as counsel may be heard, for entry of an order pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, as made applicable by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure, dismissing the Amended Complaint filed by 288 4th LLC (the “Debtor”) as against CTSW.

PLEASE TAKE FURTHER NOTICE, that all hearings before Judge Stong will be conducted by telephone, video or in person, as the Court deems appropriate. For remote hearings, whether telephonic or video, it is not necessary to contact the Courtroom Deputy to request prior authorization to appear remotely.

Whether the hearing is in person or remote, please use eCourt Appearances to register to appear at a hearing. To register, please provide your name, address, e-mail address, telephone number on the hearing date, and the party that you represent, if applicable. Please be sure to register at least two business days before your hearing. For remote hearings, you will receive instructions on how to access the hearing via e-mail two business days before the hearing. On your hearing date, please connect at least ten minutes before your scheduled hearing time and keep your audio and video on mute until your case is called.

If you have a CM/ECF account, you may access eCourt Appearances in the “Utilities” menu after logging into CM/ECF. Alternatively, you may access eCourt Appearances on the Court’s website at <https://ecf.nyeb.uscourts.gov/cgi-bin/nyebAppearances.pl>. In the event that you are not able to register online, you may call or email Judge Stong’s courtroom deputy for instructions at (347) 394-1864, ess_hearings@nyeb.uscourts.gov, at least two (2) business days prior to the hearing date.

Additional information about eCourt Appearances, including a tutorial on how to use the program, is available at <https://www.nyeb.uscourts.gov/registering-remote-hearing-appearanceusing-ecourt-appearances>. For more information, please see <https://www.nyeb.uscourts.gov/content/judge-elizabeth-s-stong>.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief herein requested shall be in writing, shall state with particularity the grounds for the objection, shall be filed with the Clerk of the Bankruptcy Court and served upon the undersigned counsel for the Applicant by 5:00 p.m. seven days prior to the return date and upon any other person whose interests would be affected if the objection is sustained.

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned from time to time without further notice other than the announcement of such adjournment in open Court.

PLEASE TAKE FURTHER NOTICE, that you need not appear at the Hearing if you do not object to the relief requested in the Motion.

PLEASE TAKE FURTHER NOTICE that, in support of the motion, CTSW will rely upon the Memorandum of Law in Support of CTSW's Motion to Dismiss the Amended Complaint, and the Declaration of Stephen Wagner.

PLEASE TAKE FURTHER NOTICE that, a proposed form of Order is submitted herewith.

Dated: November 18, 2024

Respectfully submitted,

COHEN TAUBER SPIEVACK & WAGNER P.C.

By: /s/ Stephen Wagner
Stephen Wagner
420 Lexington Avenue, Suite 2400
New York, New York 10170
(212) 586-5800
swagner@ctswlaw.com

Pro Se Defendant